

NATIONAL FOREIGN INTELLIGENCE BOARD

NFIB/NFIC-9.1/45
13 April 1981

MEMORANDUM FOR NATIONAL FOREIGN INTELLIGENCE COUNCIL MEMBERS

FROM : Walter Elder
Executive Secretary

SUBJECT : Waiver of Portion-Marking Requirement for
In-Plant Contractor-Generated SCI Documents

The attached memoranda are for your information and guidance.



WALTER ELDER

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Attachment
As Stated

MORI/CDF Pages 2 - 7

NATIONAL FOREIGN INTELLIGENCE BOARD

Attachment to
NFIB/NFIC-9.1/45
13 April 1981

MEMORANDUM FOR NATIONAL FOREIGN INTELLIGENCE COUNCIL


**SUBJECT: Waiver of Portion-Marking Requirement for In-Plant
Contractor-Generated SCI Documents**

1. In response to a request by the Acting Chairman, NFIB, the Director, Information Security Oversight Office (ISOO) has granted a waiver from the portion-marking requirement of Section 1-504 of Executive Order 12065, for sensitive compartmented information (SCI) material generated by SCI contractors in contractor facilities. This memorandum is authorization to implement the provisions of the waiver.

2. The provisions of the waiver are permissive rather than mandatory, and cognizant Senior Intelligence Officers may continue to require portion-marking where appropriate. Any document upon which the waiver is exercised will be marked as follows:

"Warning - this document shall not be used as a
source for derivative classification."

3. In his approval letter (attachment B), the Director, ISOO, stated that the waiver does not apply to certain types of information. Questions concerning this provision may be directed to agency records management personnel or to ISOO.


William J. Casey
Chairman

Attachments:

- A. Letter from Acting Chairman, NFIB, to Director, ISOO dated 7 January 1981.
- B. Letter from Director, ISOO, to Chairman, NFIB, dated 3 March 1981.

(10 April 1981)

The Director of Central Intelligence

Washington, D.C. 20505

Attachment to
NFIB/NFIC-9.1/45
13 April 1981

Mr. Steven Garfinkel
Director, Information Security
Oversight Office (Z)
General Services Administration
18th & F Streets, N.W.
Washington, D.C. 20405

7 JAN 1981

Dear Mr. Garfinkel:

As you are aware, for some time the Intelligence Community has been working on a compartmented information program known as APEX, a single community-wide system designed to replace the multitude of compartmented systems already in existence. The primary objective of APEX is to ensure that only information which is truly sensitive and deserving of compartmentation is so marked and receives the protection it deserves. Unfortunately, the conversion to APEX will be costly, both in terms of dollars and human resources. It is therefore necessary to determine areas where small modifications to current standards will produce substantial cost savings.

We have determined that one of those areas is the portion marking requirement of Executive Order 12065. While we have no problem with the portion marking requirement as applied to members of the Intelligence Community, I do believe that this requirement, if imposed on government contractors who do work for the Intelligence Community, would result in costs which would greatly exceed any benefits derived therefrom. For example, a recent survey of only a few contractors indicates that the costs of portion marking by contractors will cost tens of millions of dollars.

It is therefore requested that, in accordance with provisions of E.O. 12065, you waive the portion marking requirement as it would apply to in-plant contractor generated sensitive compartmented information.

Forwarded herewith is substantiation for the waiver request. Since we intend to implement APEX in early 1981, I would appreciate your early and favorable consideration of this matter.

Yours sincerely,

/s/ Frank C. Carlucci

Frank C. Carlucci
Acting Chairman,
National Foreign Intelligence Board

Enclosure

Enclosure to Letter to Director, Information Security Oversight Office

SUBJECT: Waiver of Portion Marking Requirement for In-Plant,
Contractor Generated APEX Material

The following is submitted in accordance with ISOO Directive
No. 1, Section I, paragraph G.9:

a. Identification of the information or classes of documents
for which such waiver is sought.

All contractor generated sensitive compartmented
information (SCI) produced in contractor facilities
under a formal agreement between the government
and the contractor for services or products.
Contractor/consultant produced material generated or
prepared within a government facility will meet the
requirements for portion marking as though it were a
government produced document.

b. A detailed explanation of why the waiver should be
granted.

The requirement for portion marking will increase
severely the man-hours to produce documents. Such
requirement will require additional personnel resources,
thereby increasing contract costs.

c. The agency's best judgment as to the anticipated
dissemination of the information or class of documents for which
waiver is sought.

All contractor generated SCI material will be submitted
to the Program Managers for use or further distribution,
if any, or to others as directed.

d. The extent to which the information subject to the waiver may form a basis for classification of other documents.

The majority of documentation generated by contractors is of a technical or engineering nature and is an end product; therefore, it is unlikely that such material would be used as a basis for classification of other documents.



3 MAR 1981

Honorable William J. Casey
Chairman, National Foreign Intelligence Board
Washington, D.C. 20505

Dear Mr. Chairman:

By the provisions of Section 1-504, Executive Order 12065, each classified document shall, by marking or other means, indicate clearly which portions are classified, with the applicable classification designation, and which portions are not classified. The Director of the Information Security Oversight Office may, for good cause, grant waivers of this requirement for specified classes of documents or information. In his letter of January 7, 1981, the Honorable Frank C. Carlucci, then Acting Chairman, National Foreign Intelligence Board, requested a waiver of the portion-marking requirement as it would apply to sensitive compartmented information (SCI) material generated by SCI contractors in contractor facilities. The rationale for the waiver is the substantial cost savings in terms of dollars and human resources.

After careful consideration of the points raised by Mr. Carlucci, and discussions with officials from the Central Intelligence Agency and other agencies concerned with the SCI program, I have concluded that portion-marking of SCI material generated in SCI contractor facilities would pose an inordinate financial burden, far beyond the benefits to be derived from the portion-marking of this information. Critical to my determination are the facts that (1) the classified information at issue is not contained in permanently valuable records of the Government; and (2) the classified information at issue will not be used as a source for derivative classification decisions outside the contractor facility.

A waiver is hereby granted from the portion-marking requirements of Section 1-504 of Executive Order 12065, for SCI material generated by SCI contractors in contractor facilities. To preclude the unnecessary classification or overclassification of permanently valuable records of the United States, this waiver shall not apply to information contained in any records so designated by the Archivist of the United States. Further, any information transmitted outside the in-house contractor facility, where it may be used as a source document in the derivative classification of other information, must be portion-marked before its transmittal.

In order that ISOO can monitor this waiver and its exceptions as part of its ongoing oversight responsibilities, I would appreciate receiving a copy of any instruction intended to implement this decision. Please don't hesitate to contact me if you have any questions or comments.

Sincerely,

STEVEN GARFINKEL
Director